

**Smith, Steve**

---

**From:** Devlin, Anne [adevlin@orrick.com] on behalf of Parker, Warrington [wparker@orrick.com]  
**Sent:** Monday, September 15, 2008 4:32 PM  
**To:** Smith, Steve  
**Subject:** FW: Scan from a Xerox WorkCentre

**Attachments:** DOC001.PDF



DOC001.PDF (47 KB)

Please see the attached document. Thank you.

"EMF <orrick.com>" made the following annotations.

-----  
=====

IRS Circular 230 disclosure:

To ensure compliance with requirements imposed by the IRS, we inform you that any tax advice contained in this communication, unless expressly stated otherwise, was not intended or written to be used, and cannot be used, for the purpose of (i) avoiding tax-related penalties under the Internal Revenue Code or (ii) promoting, marketing or recommending to another party any tax-related matter(s) addressed herein.

-----  
=====

NOTICE TO RECIPIENT: THIS E-MAIL IS MEANT FOR ONLY THE INTENDED RECIPIENT OF THE TRANSMISSION, AND MAY BE A COMMUNICATION PRIVILEGED BY LAW. IF YOU RECEIVED THIS E-MAIL IN ERROR, ANY REVIEW, USE, DISSEMINATION, DISTRIBUTION, OR COPYING OF THIS E-MAIL IS STRICTLY PROHIBITED. PLEASE NOTIFY US IMMEDIATELY OF THE ERROR BY RETURN E-MAIL AND PLEASE DELETE THIS MESSAGE FROM YOUR SYSTEM. THANK YOU IN ADVANCE FOR YOUR COOPERATION.

For more information about Orrick, please visit <http://www.orrick.com/>

=====



ORRICK, HERRINGTON & SUTCLIFFE LLP  
THE ORRICK BUILDING  
405 HOWARD STREET  
SAN FRANCISCO, CALIFORNIA 94105-2669  
tel +1-415-773-5700  
fax +1-415-773-5759  
WWW.ORRICK.COM

September 15, 2008

Warrington S. Parker III  
(415) 773-5740  
wparker@orrick.com

*VIA E-MAIL ATTACHMENT*

Stephen S. Smith  
1900 Avenue of the Stars, 21st Floor  
Los Angeles, CA 90067  
[ssmith@ggfirm.com](mailto:ssmith@ggfirm.com)

Re: Facebook v. StudiVZ

Dear Mr. Smith:

I write to follow up on my request that we schedule a Rule 26 discovery conference. Please let me know your availability.

Additionally, I would like to discuss with you the hearing date on the motion to dismiss of Verlagsgruppe Georg Von Holtzbrinck GmbH. Please let me know whether you intend to oppose the motion for discovery as to that defendant or at all. If you do not intend to oppose the motion for discovery either as to that defendant or at all, I would like to discuss a discovery schedule. If it appears that discovery cannot be completed in sufficient time for the parties to utilize it in connection with the motion to dismiss, Facebook would seek to continue the hearing date on the motion to dismiss.

If you do intend to oppose the motion for discovery, in light of today's order on Facebook's motion to shorten time on its motion for expedited discovery, Facebook intends to ask the court—absent stipulation—to continue the hearing date on the motion to dismiss for personal jurisdiction currently set for October 31, 2008. Facebook will seek this relief because currently Facebook's opposition to the motion is due on October 10, 2008. That is four days prior to the hearing on the motion to expedite discovery, which means that Facebook would have to file an opposition without knowing whether it is entitled to discovery. And of course, no discovery will have been taken.

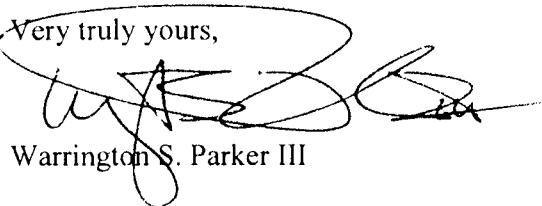
Facebook would propose that the hearing date be move by three weeks, or the first available date thereafter. Facebook would further propose that, if the court grants the motion for



Stephen S. Smith  
September 15, 2008  
Page 2

expedited discovery, the parties would re-schedule the motion, in light of the discovery to be taken, on a date set by the court or a date selected by the parties assuming the parties can reach agreement. Of course, a stipulation would likely obviate the need to file a motion for continuance. Please let me know whether your clients are agreeable to stipulate to continue the hearing date of October 31.

Very truly yours,



Warrington S. Parker III